



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,009	03/16/2001	Jean-Marc Ascione	05725.0634-00	5103

22852 7590 07/17/2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER LLP  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 07/17/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/809,009

Applicant(s)

ASCIONE ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1 This action is responsive to the amendment filed on May 15, 2002.

2 The rejection of claims 1-65 under 35 U.S.C. 103(a) as being unpatentable over de la Mettrie et al. (US' 5,989,295) in view of de la Mettrie et al. (US' 5,976,195), is maintained for the reasons set forth in the previous office action in paper No. 5, dated 01/24/2002.

### *Response to Applicant's Arguments*

3 Applicant's arguments filed 5/15/2002 have been fully considered but they are not persuasive.

With respect to the rejection based upon de la Mettrie (US' 295) in view of de la Mettrie (US' 195), Applicant argues that the examiner failed to establish a prima facie case of obviousness. The applicant also argues that the modified reference would not teach or suggest all the limitations of the claims because neither reference teaches or suggests at least one additional anionic associative polymer comprising alkoxyated fatty alcohol and a carboxylic acid.

The examiner respectfully, disagrees with the above arguments because de la Mettrie (US' 295) teaches a hair dyeing composition comprising at least one oxidation dye precursor, couplers and at least one anionic amphiphilic polymer containing at least one hydrophilic unit of an unsaturated olefinic carboxylic acid, and at least one hydrophobic unit of a (C<sub>10</sub>-C<sub>30</sub>) alkyl ester of unsaturated carboxylic acid, preferably exclusively (mainly) of said (C<sub>10</sub>-C<sub>30</sub>) alkyl ester of unsaturated carboxylic acid (see col. 1, lines 5-14). Further, de la Mettrie (US' 195) teaches in another analogous art a hair dyeing composition comprising oxidation dye precursors, couplers and an anionic amphiphilic polymer containing at least one hydrophilic unit, and at least one allyl ether unit containing a fatty chain (see col.1, lines 5-12). Therefore, there is a reason to combine

Art Unit: 1751

the references since both references teach and suggest the use of anionic polymers in their compositions for the same utility (hair dyeing compositions).

4      **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

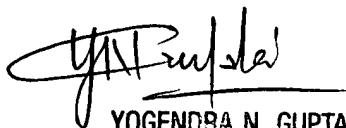
Application/Control Number: 09/809,009

Page 4

Art Unit: 1751

Elhilo

July 10, 2002



YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700